

House File 751 - Introduced

HOUSE FILE _____
BY KAUFMANN and FOEGE

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to the collection and recycling of thermostats.
2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
3 TLSB 2679YH 82
4 tm/es/88

PAG LIN

1 1 Section 1. NEW SECTION. 455D.31 MERCURY == THERMOSTATS.
1 2 1. As used in this section, unless the context otherwise
1 3 requires:
1 4 a. "Manufacturer" means any person, firm, association,
1 5 partnership, corporation, governmental entity, organization,
1 6 combination, or joint venture that manufactures thermostats
1 7 and is the brand-name owner on the thermostat.
1 8 b. "Thermostat" means a product or device that uses a
1 9 mercury switch to sense and control room temperature through
1 10 communication with heating, ventilating, or air-conditioning
1 11 equipment. "Thermostat" includes thermostats used to sense
1 12 and control room temperature in residential, commercial,
1 13 industrial, and other buildings but does not include
1 14 thermostats used to sense and control temperature as part of a
1 15 manufacturing process.
1 16 c. "Thermostat retailer" means a person who sells
1 17 thermostats of any kind directly to homeowners or other
1 18 nonprofessionals through any selling or distribution
1 19 mechanism, including but not limited to sales using the
1 20 internet or catalogues. A thermostat retailer may also be a
1 21 thermostat wholesaler if it meets the definition of thermostat
1 22 wholesaler.
1 23 d. "Thermostat wholesaler" means a person who is engaged
1 24 in the distribution and wholesale selling of large quantities
1 25 of heating, ventilation, and air-conditioning components,
1 26 including thermostats, to contractors who install heating,
1 27 ventilation, and air-conditioning components, including
1 28 thermostats.
1 29 2. Except as otherwise provided, a person who discards
1 30 solid waste shall separate thermostats from that solid waste
1 31 for management as hazardous waste or universal hazardous
1 32 waste, according to all applicable state and federal
1 33 regulations. A contractor who replaces or removes thermostats
1 34 shall assure that any discarded thermostat is subject to
1 35 proper separation and management as hazardous waste or
2 1 universal hazardous waste. A contractor who replaces a
2 2 thermostat in a residence shall deliver the thermostat to an
2 3 appropriate collection location for recycling.
2 4 3. Each thermostat manufacturer that has offered for final
2 5 sale, sold at final sale, or distributed thermostats in the
2 6 state shall do all of the following:
2 7 a. Not later than October 1, 2007, submit a plan to the
2 8 department for approval describing a collection program for
2 9 thermostats. The program contained in the plan shall ensure
2 10 that all the following take place:
2 11 (1) That an education and outreach program is developed.
2 12 The program shall be directed toward thermostat wholesalers,
2 13 thermostat retailers, contractors, and homeowners and ensure a
2 14 maximum rate of collection of thermostats. There shall not be
2 15 a cost to thermostat wholesalers or thermostat retailers for
2 16 education and outreach materials.
2 17 (2) That handling and recycling of thermostats are
2 18 accomplished in a manner that is consistent with the
2 19 provisions of the universal waste rules.
2 20 (3) That containers for thermostat collection are provided
2 21 to all thermostat wholesalers. The cost to thermostat

2 22 wholesalers for such containers shall be limited to an
2 23 initial, reasonable, one-time fee per container as specified
2 24 in the plan.

2 25 (4) That collection systems are provided to all collection
2 26 points registered pursuant to subsection 6. Collection
2 27 systems may include individual product mail back or multiple
2 28 collection containers. The costs of collection shall not be
2 29 passed on to a registered collection point. A registered
2 30 collection point shall be limited to an initial, reasonable,
2 31 one-time fee per container as specified in the plan.

2 32 b. Not later than April 1, 2008, implement a thermostat
2 33 collection plan approved by the department.

2 34 c. Beginning in 2009, submit an annual report to the
2 35 department by April 1 of each year that includes, at a
3 1 minimum, all of the following:

3 2 (1) The number of thermostats collected and recycled by
3 3 that manufacturer during the previous calendar year.

3 4 (2) The estimated total amount of mercury contained in the
3 5 thermostat components collected by that manufacturer during
3 6 the previous calendar year.

3 7 (3) An evaluation of the effectiveness of the
3 8 manufacturer's collection program.

3 9 (4) An accounting of the administrative costs incurred in
3 10 the course of administering the collection and recycling
3 11 program.

3 12 4. a. By April 1, 2008, a thermostat wholesaler may not
3 13 offer for final sale, sell at final sale, or distribute
3 14 thermostats unless the wholesaler does all of the following:

3 15 (1) Acts as a collection site for thermostats.

3 16 (2) Promotes and utilizes the collection containers
3 17 provided by thermostat manufacturers to facilitate a
3 18 contractor collection program.

3 19 (3) Completes all other tasks as needed to establish and
3 20 maintain a cost-effective manufacturer collection program.

3 21 b. By April 1, 2008, a thermostat retailer may not offer
3 22 for final sale, sell, or distribute thermostats in the state
3 23 unless the thermostat retailer participates in an education
3 24 and outreach program to educate consumers on the collection
3 25 program for mercury thermostats.

3 26 5. Beginning April 1, 2008, all of the following sales
3 27 prohibitions shall apply to thermostat manufacturers,
3 28 thermostat wholesalers, and thermostat retailers:

3 29 a. A thermostat manufacturer not in compliance with this
3 30 section is prohibited from offering any thermostat for final
3 31 sale in the state, selling any thermostat at final sale in the
3 32 state, or distributing any thermostat in the state. A
3 33 thermostat manufacturer not in compliance with this section
3 34 shall provide the necessary support to thermostat wholesalers
3 35 and thermostat retailers to ensure the manufacturer's
4 1 thermostats are not offered for final sale, sold at final
4 2 sale, or distributed in this state.

4 3 b. A thermostat wholesaler or thermostat retailer shall
4 4 not offer for final sale, sell at final sale, or distribute in
4 5 this state any thermostat of a manufacturer that is not in
4 6 compliance with this section.

4 7 6. The department shall do all of the following:

4 8 a. Review and grant approval of, deny, or approve with
4 9 modifications a manufacturer plan required under this section.
4 10 The department shall not approve a plan unless all elements of
4 11 subsection 3, paragraph "a", are adequately addressed and the
4 12 program outlined in the plan will assure a maximum rate of
4 13 collection of mercury-containing thermostats. In reviewing a
4 14 plan the department may consider consistency of the plan with
4 15 collection requirements in other states and consider
4 16 consistency between thermostat manufacturer collection
4 17 programs. In reviewing plans, the agency shall ensure that
4 18 education and outreach programs are uniform and consistent to
4 19 ensure ease of implementation by thermostat wholesalers and
4 20 thermostat retailers.

4 21 b. The department shall establish a process for public
4 22 review and comment on all plans submitted by thermostat
4 23 manufacturers prior to plan approval. The department shall
4 24 consult with interested persons, including representatives of
4 25 thermostat manufacturers, environmental groups, thermostat
4 26 wholesalers, thermostat retailers, contractors, and local
4 27 government.

4 28 c. The department shall maintain a list of entities that
4 29 have registered as collection points for mercury thermostats.

4 30 d. By January 15, 2009, and annually thereafter, the
4 31 department shall submit a written report to the general
4 32 assembly regarding the collection and recycling of thermostats

4 33 in the state. The first report submitted shall include
4 34 recommendations for any statutory changes concerning the
4 35 collection and recycling of thermostats. Subsequent reports
5 1 shall include an evaluation of the effectiveness of the
5 2 thermostat collection and recycling programs, information on
5 3 actual collection rates, and recommendations for any statutory
5 4 changes concerning the collection and recycling of
5 5 thermostats.

5 6 7. The goal of the collection and recycling efforts under
5 7 this section is to collect and recycle at least seventy
5 8 percent of the thermostats estimated by the department to be
5 9 discarded within two years after the implementation of
5 10 approved plans and at least eighty percent of the thermostats
5 11 estimated by the department to be discarded within three years
5 12 after the implementation of approved plans. By January 1,
5 13 2008, the department shall estimate the number of
5 14 out-of-service thermostats generated in the state on an annual
5 15 basis, in consultation with interested persons, including
5 16 representatives of thermostat manufacturers, thermostat
5 17 wholesalers, thermostat retailers, contractors, environmental
5 18 groups, and local government. If collection efforts fail to
5 19 meet the maximum rate of collection, the department shall, in
5 20 consultation with interested persons, require modifications to
5 21 collection programs in an attempt to improve collection rates
5 22 in accordance with these goals.

5 23 EXPLANATION

5 24 This bill relates to the collection and recycling of
5 25 thermostats.

5 26 The bill defines a thermostat as a product or device that
5 27 uses a mercury switch to sense and control room temperature
5 28 through communication with heating, ventilating, or
5 29 air-conditioning equipment and includes thermostats used to
5 30 sense and control room temperature in residential, commercial,
5 31 industrial, and other buildings but does not include
5 32 thermostats used to sense and control temperature as part of a
5 33 manufacturing process.

5 34 The bill provides that a person who discards solid waste
5 35 shall separate thermostats from that solid waste for
6 1 management as hazardous waste or universal hazardous waste,
6 2 according to all applicable state and federal regulations.
6 3 The bill provides requirements for a contractor who replaces
6 4 or removes thermostats.

6 5 The bill provides that each thermostat manufacturer that
6 6 has offered for final sale, sold at final sale, or has
6 7 distributed thermostats in the state shall do all of the
6 8 following:

6 9 1. Not later than October 1, 2007, submit a plan to the
6 10 department for approval that describes a collection program
6 11 for thermostats.

6 12 2. Not later than April 1, 2008, implement a thermostat
6 13 collection plan approved by the department.

6 14 3. Beginning in 2009, submit an annual report to the
6 15 department by April 1 of each year that includes, at a
6 16 minimum, the number of thermostats collected and recycled by
6 17 that manufacturer during the previous calendar year, the
6 18 estimated total amount of mercury contained in the thermostat
6 19 components collected by that manufacturer during the previous
6 20 calendar year, an evaluation of the effectiveness of the
6 21 manufacturer's collection program, and an accounting of the
6 22 administrative costs incurred in the course of administering
6 23 the collection and recycling program.

6 24 The bill provides that, by April 1, 2008, a thermostat
6 25 wholesaler may not offer for final sale, sell at final sale,
6 26 or distribute thermostats unless the wholesaler acts as a
6 27 collection site for thermostats; promotes and utilizes the
6 28 collection containers provided by thermostat manufacturers to
6 29 facilitate a contractor collection program; and completes all
6 30 other tasks as needed to establish and maintain a
6 31 cost-effective manufacturer collection program.

6 32 The bill provides that, by April 1, 2008, a thermostat
6 33 retailer may not offer for final sale, sell, or distribute
6 34 thermostats in the state unless the thermostat retailer
6 35 participates in an education and outreach program to educate
7 1 consumers on the collection program for mercury thermostats.

7 2 The bill provides that beginning April 1, 2008, a
7 3 thermostat manufacturer not in compliance with the bill is
7 4 prohibited from offering any thermostat for final sale in the
7 5 state, selling any thermostat at final sale in the state, or
7 6 distributing any thermostat in the state and a thermostat
7 7 wholesaler or thermostat retailer shall not offer for final
7 8 sale, sell at final sale, or distribute in this state any

7 9 thermostat of a manufacturer that is not in compliance with
7 10 the bill.

7 11 The bill requires the department of natural resources to
7 12 review and grant approval of, deny, or approve with
7 13 modifications a manufacturer plan. The bill requires the
7 14 department to establish a process for public review and
7 15 comment on all plans submitted by thermostat manufacturers
7 16 prior to plan approval. The bill requires the department to
7 17 maintain a list of entities that have registered as collection
7 18 points for mercury thermostats. By January 15, 2009, and
7 19 annually thereafter, the bill requires the department to
7 20 submit a written report to the general assembly regarding the
7 21 collection and recycling of thermostats in the state.

7 22 The bill provides that the goal of the collection and
7 23 recycling efforts is to collect and recycle at least 70
7 24 percent of the thermostats estimated by the department to be
7 25 discarded within two years after the implementation of
7 26 approved plans and at least 80 percent of the thermostats
7 27 estimated by the department to be discarded within three years
7 28 after the implementation of approved plans. By January 1,
7 29 2008, the bill requires the department to estimate the number
7 30 of out-of-service thermostats generated in the state on an
7 31 annual basis. The bill provides that if collection efforts
7 32 fail to meet the maximum rate of collection, the department
7 33 shall, in consultation with interested persons, require
7 34 modifications to collection programs in an attempt to improve
7 35 collection rates in accordance with these goals.

8 1 LSB 2679YH 82

8 2 tm:nh/es/88